



An  
Bord  
Pleanála

## Inspector's Report PL.26.248655

---

<b>Development</b>	Demolition of derelict house and construction of new dwelling and associated site works.
<b>Location</b>	Seamount, Ardmaine, Courtown, Co. Wexford.
<b>Planning Authority</b>	Wexford County Council.
<b>Planning Authority Reg. Ref.</b>	20170340.
<b>Applicants</b>	Brian Allen.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse.
<b>Type of Appeal</b>	First Party.
<b>Appellant</b>	Brian Allen.
<b>Observers</b>	None.
<b>Date of Site Inspection</b>	8 <sup>th</sup> September 2017.
<b>Inspector</b>	Dáire McDevitt.

## **1.0 Site Location and Description**

- 1.1.** The site is located in the townland of Seamount to the south of Courtown Harbour in the village of Courtown, Co. Wexford. Courtown/Riverchapel is a popular tourist destination in the southeast of the country and its predominant built form is characterised by tourism related developments such as caravan parks, holiday chalets and amusement centres.
- 1.2.** Access to the site is off Sandy Lane, a private road off the R742. Sandy Lane splits into two sections, an upper and lower lane. The appeal site is located along the lower lane which serves four other houses, all of which are replacements of original chalets. The houses are contemporary in nature and vary in size and scale, reflecting the topography of the area. To the north and west of the site, accessed off the upper lane, there are a number of two storey, storey and a half dwellings and chalets. There are also a number of fire damaged and vandalised holiday chalets and cottages along the northern section of Sandy Lane.
- 1.3.** The existing structure on site is a timber chalet which is unoccupied and in a state of significant disrepair. The western boundary consists of temporary fencing along the lane and its eastern boundary is open at the coastal edge where there are steep rocky slopes leading down to the shore. The site is bounded to the north by a timber fence and the applicants dwelling, a part single storey part two storey contemporary style house. Adjoining the applicant's house to the northwest is another contemporary dwelling. To the south of the site there is a part single storey part two storey chalet style house with retaining walls running along its boundaries.
- 1.4.** The site with a stated area of c. 0.21 hectares is overgrown and slopes downwards from east to west, levels fall by c. 4 metres over a distance of c. 26 metres and then further down to the shore. There is a timber stairway along the northern boundary which serves as access to the beach/shore from the applicant's house to the north. It is proposed to link the current site to this stairway. There is a parking area along the laneway to the front of the site.
- 1.5.** Photographs, aerial images and maps are in the file pouch.

## 2.0 Proposed Development

Permission is sought for the demolition of an existing c. 65 sq.m timber chalet and the construction of a c. 127 sq.m part single storey part two storey house which is designed to take account of the variation in ground levels on site.

- The proposed low pitched roof is stated to be in keeping with the adjoining properties to the north and south. The low pitched standing seam roof is pitched downwards so as not to restrict the existing views of the sea from the dwellings to the rear along the upper lane.
- The external finishes are proposed to be a mix of selected cladding (laid horizontally) and smooth render finish with aluminium or pvc windows and glass balustrades.
- Use of the existing water mains connection on site.
- Wastewater from the dwelling would be discharged into an approved sewerage storage tank and pump sump with macerator, which would then be pumped to the existing sewer line at Sandy Lane.
- Stormwater generated from the dwelling would be directed into a stone filled stormwater soakaway located within the curtilage of the site.
- No changes to the existing parking arrangements which are located parallel to the site along the laneway. Access to the site is via steps. No ramps proposed due to the gradient of the site.
- A number of retaining walls are proposed and the use of pile foundations are indicated on the plans.

The application also includes 3D images and photographs.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Refuse permission for the following reason:

*The proposed development would be contrary to Objective TA07 of the Courtown and Riverchapel Local Area Plan 2015-2021 and Section 18.21.4 of the Wexford County Development Plan 2013-2019 which states that the Council will consider the replacement of an existing structure which is equal to or not more than 20% of the floor area of that being replaced. The proposed development would contravene this objective and would be contrary to the proper planning and sustainable development of the area.*

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

This formed the basis of the Planning Authority's decision and is summarised below:

- The Area Planner noted that the scale and design of the proposal is in keeping with adjacent developments and that the proposal would not be visually obtrusive.
- The Irish Coastal Protection Strategy Study shows the location as a shoreline not subject to future erosion at the high confidence level. The Planning Authority concluded that taking this into account, in conjunction with the presence of rock armour at the base of the site, it was considered that the proposed development would not have a significant impact on coastal erosion.
- Overall the proposal was considered acceptable and complied with the development management standards in terms of private open space provision, separation distances, services and access arrangements.

Notwithstanding the above a recommendation to refuse permission issued as the proposal was considered to be a material contravention of the objectives as set out in the County Development Plan and the Local Area Plan relating to the limitation on the size of replacement of/or extensions to chalets not exceeding 20% of its original size in Chalet Area 2.

### **3.2.2. Other Technical Reports**

**Chief Fire Officer.** No objection subject to conditions.

### **3.3. Prescribed Bodies**

None

### **3.4. Third Party Observations**

None.

## **4.0 Planning History**

There is no planning history attached to the application site. However, the following files of relevance are noted for sites along the lower section of Sandy Lane.

### **Site to the North of the appeal site (Applicants house):**

**Planning Authority Reference No. 20100517**, this refers to a 2010 grant of permission for the demolition of a c. 71sq.m chalet and the construction of a c. 154.9 sq.m contemporary style part single storey part two storey house.

### **Site to the northwest of the applicant's house:**

**Planning Authority Reference 20080540** refers to a 2008 grant of permission for the demolition of a c. 36.3 sq.m chalet and the construction of a c. 147.8 sq.m house.

**Site to the south of the appeal site:**

**Planning Authority Reference No. 20140116. An Bord Pleanála Reference No. PL.26.243351.** This refers to a 2014 grant of permission for the demolition of a c. 62.2 sq.m chalet and the construction of a c. 169.1 sq.m contemporary style part single storey part two storey house. This application addressed the reason for refusal under PL.26.242224 (see below).

**Planning Authority Reference No. 20130272. An Bord Pleanála Reference No. PL.26.242224.** This refers to the 2013 refusal by the Board for permission for the demolition of a chalet and the construction of a contemporary style part single storey part two storey house. The Board directed that the development be refused on the grounds that the proposed replacement house would be visually obtrusive and would injure the visual amenities of the area.

## **5.0 Policy Context**

### **5.1. Courtown Riverchapel Local Area Plan 2015-2021**

Courtown and Riverchapel are designated as a District town in the county's settlement hierarchy.

The site is zoned under land Use Objective **CA2** 'Chalet Area 2'.

#### **Chalet Area 2**

*The Council will consider the replacement of, or extension to, existing habitable structures in this area for use as holiday home accommodation as set out in Objective TA07. However, it will not consider the development of new structures on greenfield sites in this area.*

**Objective TA07** refers to the replacement of, or extension to, existing habitable structures within Chalet Area 2 in the Burrow and Pollshone Area subject to compliance with eleven criteria set out in the objective. These include:

*(b) It is proposed to replace the existing structure with a new structure which is equal to or not more than 20% of the floor area of that being replaced, or to extend the structure with an extension which is equal to or not more than 20% the floor area of the structure to be extended. This is to ensure that the scale and form of this type of development is consistent.*

*(c) The replacement structure is for use as holiday home accommodation.*

## **5.2. Wexford County Development Plan 2013-2019**

Development Management Standards are contained in Chapter 18 and replacement chalets are specifically addressed under **Section 18.21.4** which includes reference to the requirement that a replacement chalet should be equal to, or no more than 20%, of the existing chalet to ensure that the scale and form of development is consistent.

## **5.3. Natural Heritage Designations**

There are no European designated sites within the immediate vicinity.

- Cahore Polders & Dunes SAC (site code 000700) is located c. 8.5km south of the site.
- Cahore Marshes SPA (site code 004143) is located c. 8.5km south of the site.
- Slaney River SAC (site code 000781) is located c. 12km east of the site.

Kilpatrick Sandhills SAC (site code 001742) is located c. 11km to the north of the site.

Natural Heritage Areas:

- Courtown Dunes and Glen pNHA (site code 000757) is located c. 1km to the north of the site.
- Ardmaine Woods pNHA (site code 001733) is located c. 1 km south of the site.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

The First Party Appeal seeks to address the reasons for refusal of permission and can be summarised as follows:

- The existing structure does not comply with current building standards and is in a significant state of disrepair.
- The Council's reason for refusal refers to Objective TA07 of the Local Area Plan and Section 18.21.4 of the County Development Plan and that any increase in floor area should not to exceed 20% of the original floor area to ensure that the development is consistent with the area.
- The Appeal includes reference to eleven planning applications that have been granted permission in the area which exceed the cap of a 20% increase in floor area. Of these, four have been granted since the County Development Plan came into effect in 2013.
- The proposed development is consistent with the scale and form of development in the vicinity of the site, as previously permitted by the Planning Authority, and would not be contrary to the proper planning and sustainable development of the area.
- The proposed low pitched roof is in keeping with the adjoining properties to the north and south. The roof shall be low pitched standing seam and pitched downwards so as not to restrict the existing views of the sea from the properties to the rear along the upper lane.
- The proposed ground floor is in keeping with that of the house to be demolished.



- A retaining wall with planting to the top shall be provided so as to allow the house to be recessed into the rear of the site, with the front of the house not protruding beyond the established building lines.
- The Area Planner noted in their report that the proposal fits in with the adjacent developments which were permitted on adjoining sites to the north and south in terms of scale and design and would not be visually obtrusive when viewed in the context of these developments.

## **6.2. Planning Authority Response**

The Planning Authority notes that the replacement dwelling is well designed and suitable for this site. It, however, exceeds the “20% policy” set out in the Courtown and Riverchapel Local Area Plan 2015-2021 and was refused on this basis alone. If the Board is of a mind to grant permission in this instance, the Planning Authority would have no significant objection to it.

## **6.3. Observations**

None.

## **7.0 Assessment**

The main issues in this appeal are those raised in the grounds of appeal. The issue of appropriate assessment also need to be addressed. The issues are dealt with under the following headings:

- Principle of the development.
- Appropriate Assessment.

## 7.1. Principle of the development

- 7.1.1 The Planning Authority refused permission on the grounds that the proposal would contravene Objective TA07 of the Courtown Riverchapel Local Area Plan 2015-2021 and Section 18.21.4 of the Wexford County Development Plan which sets out that the Council will only consider the replacement of an existing structure which is equal to or not more than 20% of the floor area of that being replaced.
- 7.1.2 The applicant is seeking permission for the demolition of a c.65 sq.m single storey timber chalet and the construction of a part single storey and part two storey dwelling with a gfa of c. 127sq.m which represents a c. 95% increase in the floor area.
- 7.1.3 The Planning Authority have noted in their response to the appeal that the proposal was refused solely on the basis that it did not comply with the '20% policy' and that if the Board is of a mind to grant permission the Planning Authority would have no significant objection in this instance.
- 7.1.4 A part single/part two storey house was granted permission in 2014 under **PL.26.243351 (Planning Authority Ref. 20140116)** on the site immediately to the south. This consisted of the demolition of a c. 62.23 sq.m timber chalet and the construction of a c.169.1 sq.m house which exceeded the 20% policy as set out in section 18.21.4 of the County Development Plan.
- 7.1.5 The immediate area has been the subject of extensive redevelopment over the last twenty years with few of the original chalets remaining, having been replaced with larger houses of varying scales and designs. The proposal is in keeping with the existing pattern of development in the area in terms of scale and design. I would draw the Boards attention to eleven cases highlighted in the grounds of appeal, four of which were granted permission following the adoption of the Wexford County Development Plan 2013-2019. The architectural character of the area has evolved over the last two decades and is now characterised by a mixture of house types and designs. It is no longer associated with modest timber chalet developments.

7.1.6 The Local Area Plan seeks to control the scale of replacement houses and/or extensions to chalets on lands zoned under land use objective Chalet Area 2. The principle behind Objective TA07 is to protect the area from insensitive, visually obtrusive development which is not in keeping with the scale and pattern of development in the area by limiting the scale of proposals to no more than 20% of the original size of the chalets. In my view this is overly restrictive having regard to the pattern of development permitted in the area over the last two decades and since the adoption of the County Development Plan in 2013 which sets out this restriction in Section 18.21.4 and subsequently under Objective TA07 in the Courtown Riverchapel Local Area Plan 201

7.1.7 I am of the opinion that this objective might be applicable to instances where, for example, the immediate area is characterised predominantly by chalets. Sandy Lane and its spur has developed over the years with a mixture of house types. The adopted policy position regarding the scale of a replacement house is not, in my view, tenable in the current scenario where the proposed development is located along a lane with four other houses, all of which are replacement houses and exceed the 20% ceiling.

7.1.8 In my view, the current proposal before the Board is not excessive in scale and is in keeping with the established pattern of development in the area which is predominantly characterised by two storey or part single/part two storey houses rather than small chalets, the majority of which have been replaced over the last twenty years. Of the chalets remaining in the immediate vicinity a number have been the subject of vandalism and fire damage and are in a derelict state.

7.1.9 The grounds of appeal refer to the material contravention of the Development Plan. The Planning Authority's reason for refusal was on the basis that the proposal would contravene an objective of the Development Plan not a Material Contravention of the Plan. Therefore, the provisions of Section 37 (2) (b) of the Planning and Development Act 2000, as amended do not apply.

- 7.1.10 In terms of technical requirements, I am satisfied that the proposal complies with the development managements standards as set out in the Development Plan pertaining to private open space provision, separation distances, services, etc. No changes are proposed to the access and parking arrangements. There are no detailed specifications on file for the proposed retaining walls or the pumping station. I am satisfied these outstanding issues can be dealt with by condition if the Board is of a mind to grant permission. The use of piling foundations is matter for building control.
- 7.1.11 The current proposal is for holiday accommodation and its use can be required by condition if the Board is of a mind to grant permission.
- 7.1.12 I consider, therefore, that the ground of appeal in relation to the Planning Authority's reason for refusal should be upheld.

## **7.2. Appropriate Assessment**

- 7.2.1 The closest Natura 2000 sites are the Cahore Polders & Dunes SAC (site code 000700) and the Cahore Marshes SPA (Site code 004143) both of which are located at a distance of c.8.5 km respectively to the south of the site. They are both relatively small sites and conservation objectives have been prepared for them.
- 7.2.2 I note that the Planning Authority carried out Appropriate Assessment Screening and concluded that having regard to the limited extent of the proposed works and the substantial distance to the nearest Natura 2000 site no element of the proposed project alone or in combination is likely to give rise to any impacts on the Natura 2000 sites. It was considered that significant impacts could be ruled out and Stage 2 Appropriate Assessment was not required.

7.2.3 There are no hydrological connections to any SAC. Having regard to the nature, scale and location of the proposed development, the separation distance from the sites and the absences of linkages or pathways between the site and the Natura 2000 sites, I consider it is reasonable to conclude, on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect any European site and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

## **8.0 Recommendation**

I recommend that permission be granted subject to condition as set out below

## **9.0 Reasons and Considerations**

Having regard to the pattern of development in the area and to the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable having regard to its design, would not seriously injure the visual or residential amenities of the area and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## **10.0 Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity

2. The house shall be used as holiday home accommodation and shall not be used as a permanent place of residence.

**Reason:** In the interest of clarity.

3. Details including samples of the materials, colours and textures of all the external finishes to the proposed building shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of protecting the character of the area.

4. Prior to the commencement of development, the applicant shall submit details and specifications for the retaining walls to be agreed in writing with Planning Authority.

**Reason:** In the of visual amenities.

5. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

**Reason:** In the interest of visual amenity.

6. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health

7. Prior to the commencement of development, the developer shall submit details and specification for the proposed pumping station on site to be agreed in writing with the Planning Authority.

**Reason:** In the interest of public health.

8. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 hours to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

9. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the

Development Contribution Scheme made under section 48 of the Act be applied to the permission.

---

Dáire McDevitt  
Planning Inspector

14<sup>th</sup> September 2017